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7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-316

13 **GAIL IRENE POOL SHIMOZONO,**
14 **a.k.a. GAIL IRENE SHIMOZONO**
62 Rainier Avenue
Livermore, California 94551

A C C U S A T I O N

15 Registered Nurse License No. 470599

16 Respondent.

17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 2. On or about August 31, 1991, the Board issued Registered Nurse License
23 Number 470599 to Gail Irene Pool Shimozone, a.k.a. Gail Irene Shimozone ("Respondent").
24 The license was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2009, unless renewed.

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1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
2 entries in any hospital, patient, or other record pertaining to the substances described in
3 subdivision (a) of this section.

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5 8. Section 4060 of the Code states, in pertinent part, that no person shall
6 possess any controlled substance, except that furnished to a person upon the prescription of a
7 physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a
8 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
9 2836.1, or a physician assistant pursuant to Section 3502.1.

10 9. Section 11173(a) of the Health and Safety Code states that "[n]o person
11 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the
12 administration of or prescription for controlled substances, (1) by fraud, deceit,
13 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

14 10. Code section 125.3 provides, in pertinent part, that the Board may request
15 the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 11. **DRUGS**

19 "Ativan" is a brand of lorazepam and is a Schedule IV controlled substance as
20 designated by Health and Safety Code section 11057, subdivision (d)(13), and a dangerous drug
21 under Code section 4022 in that under federal or state law it requires a prescription.

22 "Lortab" is a brand of hydrocodone and is a Schedule III controlled substance as
23 designated by Health and Safety Code section 11056(e)(4), and a dangerous drug under Code
24 section 4022 in that under federal and state law it requires a prescription.

25 "Norco" is a brand of hydrocodone and is a Schedule III controlled substance as
26 designated by Health and Safety Code section 11056, subdivision (e)(3), and a dangerous drug
27 under Code section 4022 in that under federal or state law it requires a prescription.

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1 **"Percocet"** is a brand of oxycodone and is a Schedule II controlled substance as
2 designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and a dangerous
3 drug under Code section 4022 in that under federal or state law it requires a prescription.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Obtaining, Possessing, and Self Administering a Controlled Substance)**

6 12. Respondent is subject to disciplinary action under section 2671(a) of the
7 Code on the grounds of unprofessional conduct, as defined by section 2762(a) of the Code, in
8 that between the approximate period of November 4, 2004 and January 25, 2005, while on duty
9 as a registered nurse at ValleyCare Health System in Pleasanton, California, Respondent did the
10 following:

11 a. Respondent obtained Norco, Percocet, Lortab and Ativan, controlled
12 substances, by fraud, deceit, misrepresentation, subterfuge, or by concealment of a material fact
13 in violation of section 11173(a) of the Health and Safety Code, by taking the controlled
14 substances from hospital supplies for her own use.

15 b. Respondent possessed Norco, Percocet, Lortab and Ativan, controlled
16 substances, in violation of section 4060 of the Code.

17 c. Respondent self-administered unknown quantities of Norco, Percocet,
18 Lortab and Ativan, controlled substances, without lawful authority.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Falsify Patient and/or Hospital Records)**

21 13. Respondent is subject to disciplinary action under section 2761(a) of the
22 Code on the grounds of unprofessional conduct, as defined by section 2762(e) of the Code, in
23 that between the approximate period of November 4, 2004 and January 25, 2005, while on duty
24 as a registered nurse at ValleyCare Health System in Pleasanton, California, she falsified, made
25 grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and/or patient records
26 in the following respects:

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Patient 1

a. On or about January 25, 2005, at 11:57 a.m., Respondent withdrew 2 Norco tablets from the Controlled Drug Record for this patient; however, Respondent failed to chart the administration or wastage of any portion of the Norco tablets or otherwise account for the disposition of the drug in any patient or hospital record.

Patient 3

b. On or about January 20, 2005, at 11:32 a.m., Respondent withdrew 2 Percocet tablets from the Controlled Drug Record for this patient; however, Respondent failed to chart the administration or wastage of any portion of the Percocet tablets or otherwise account for the disposition of the drug in any patient or hospital record.

Patient 7

c. On or about January 11, 2005, at 11:38 a.m., Respondent withdrew 2 Percocet tablets from the Controlled Drug Record for this patient; however, Respondent failed to chart the administration or wastage of any portion of the Percocet tablets or otherwise account for the disposition of the drug in any patient or hospital record.

Patient 10

d. On or about December 9, 2004, at 8:56 a.m., Respondent withdrew 1 Lortab tablet from the Controlled Drug Record for this patient; however, Respondent failed to chart the administration or wastage or other otherwise account for the disposition of the drug in any patient or hospital record.

e. On or about December 11, 2004, at 10:19 a.m., Respondent withdrew 1 Norco tablet from the Controlled Drug Record for this patient. Respondent charted the administration of 1 Norco tablet at 9:30 a.m. and 1 Norco tablet at 12:30 p.m.; however, Respondent only withdrew 1 Norco tablet on this date.

Patient 11

f. On or about December 9, 2004, at 1:33 p.m., Respondent withdrew 2 Percocet tablets from the Controlled Drug Record for this patient; however, Respondent failed to chart the administration or wastage of any portion of the Percocet tablets or otherwise account for

1 the disposition of the drug in any patient or hospital record.

2 **Patient 12**

3 g. On or about December 3, 2004, at 11:48 a.m., Respondent withdrew 1
4 Norco tablet from the Controlled Drug Record for this patient; however, Respondent charted the
5 administration of 1 Norco tablet to this patient at 10:00 a.m. and again at 11:45 a.m.

6 **Patient 15**

7 h. On or about January 20, 2005, at 11:32 a.m., Respondent withdrew 2
8 Percocet tablets from the Controlled Drug Record for this patient; however, the physician's
9 order was for Lortab. Further, Respondent failed to chart the administration or wastage of any
10 portion of the Percocet tablets or otherwise account for the disposition of the drug in any patient
11 or hospital record.

12 **Patient 16**

13 i. On or about November 29, 2004, at 10:40 a.m., Respondent withdrew 1
14 Norco tablet from the Controlled Drug Record for this patient; however, Respondent failed to
15 chart the administration or wastage of any portion of the Norco tablet or otherwise account for
16 the disposition of the drug in any patient or hospital record.

17 j. On or about November 29, 2004, at 10:49 a.m., Respondent withdrew 1
18 Norco tablet from the Controlled Drug Record for this patient; however, Respondent failed to
19 chart the administration or wastage of any portion of the Norco tablet or otherwise account for
20 the disposition of the drug in any patient or hospital record.

21 **Patient 17**

22 k. On or about November 26, 2004, at 7:28 a.m., Respondent withdrew 2 mg
23 of Ativan from the Controlled Drug Record for this patient. Respondent charted the
24 administration of 0.1 mg of Ativan in the patient's Medication Administration Record; however,
25 Respondent failed to chart the wastage or otherwise account for the disposition of the remaining
26 1.9 mg of Ativan in any patient or hospital record.

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1 **Patient 19**

2 1. On or about November 20, 2004, at 11:07 a.m., Respondent withdrew 1
3 Norco tablet from the Controlled Drug Record for this patient; however, Respondent failed to
4 chart the administration or wastage of any portion of the Norco tablet or otherwise account for
5 the disposition of the drug in any patient or hospital record.

6 **Patient 20**

7 m. On or about November 18, 2004, at 8:56 a.m., Respondent withdrew 1
8 Norco tablet from the Controlled Drug Record for this patient. Respondent charted the
9 administration of the Norco tablet in the patient's Medication Administration Record at 10:00
10 a.m.; however, when asked why she held the medication for more than an hour before
11 administration, Respondent stated that she probably diverted the medication and did not actually
12 administer it to the patient.

13 **Patient 21**

14 n. On or about November 16, 2004, at 11:49 a.m., Respondent withdrew 1
15 Norco tablet from the Controlled Drug Record for this patient; however, Respondent failed to
16 chart the administration or wastage of any portion of the Norco tablet or otherwise account for
17 the disposition of the drug in any patient or hospital record.

18 **Patient 22**

19 o. On or about November 4, 2004, at 9:43 a.m., Respondent withdrew 1
20 Norco tablet from the Controlled Drug Record for this patient; however, Respondent failed to
21 chart the administration or wastage of any portion of the Norco tablet or otherwise account for
22 the disposition of the drug in any patient or hospital record.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


26 1. Revoking or suspending Registered Nurse License Number 470599, issued
27 to Gail Irene Pool Shimozone, a.k.a. Gail Irene Shimozone;

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1 2. Ordering Gail Irene Pool Shimozone, a.k.a. Gail Irene Shimozone to pay
2 the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
3 case, pursuant to Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.
5

6 DATED: 5/12/08
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9 
10 RUTH ANN TERRY, M.P.H., R.N.
11 Executive Officer
12 Board of Registered Nursing
13 Department of Consumer Affairs
14 State of California
15 Complainant
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